

## REMARKS

The Examiner's Office Action of September 13, 2005 has been carefully reviewed. Applicants are herewith canceling the following claims: 5, 6, 7, 8, 21, 22, 23, 24, 25, 26 and 27; claims 2, 3, 4, and 20 were previously canceled. Thus, the following claims now remain pending: 1 and 9-19. The Examiner's rejection and/or objection to canceled claims will not be addressed.

Turning now to the pending claims, the Examiner objected to claims 1, 12, 13, 14, 17 and 18 as containing various informalities. Specifically, the Examiner objected to claim 1 for the lack of antecedent basis for "the number of collisions" and "the network usage." This claim has been amended as suggested by the Examiner to read, "at least one of a number of collisions...amount of network usage."

Furthermore, claims 12 and 13 were objected to for reference to "the original packet" which the Examiner suggested should be changed to "the packet" for sake of clarity. For claims 14, 17 and 18 the Examiner suggested changing "the determined value of the quality of service" to "the calculated value of the quality of service." Claims 12, 13, 14, 17 and 18 have all been amended as suggested by the Examiner.

Thus, all of the informalities noted by the Examiner are deemed overcome on the basis of the claim amendments made herein.

Applicant notes the Examiner's allowance of claims 9-16. In light of this, and the claim amendments made hereinabove, claims 9 -16 are now believed to be in a condition for allowance.

Turning now to the substantive rejection of the pending claims, the Examiner rejected claims 1, 17, and 19 under 35 U.S.C. § 103(a) as being unpatentable over Hattori et al in view of Jones et al. and in further view of U.S. Patent 6,104,700 to Haddock et al. (again, the Examiner's rejection of canceled claims are not addressed). Furthermore, claim 18 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Hattori, Jones and Haddock as applied above and further in view of U.S. Patent 5,461,611 to Drake. Finally, claim 1 also stands rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent 6,553,515 to Gross in view of Jones et al. and in further view of Haddock et al. Each of these bases for rejection is addressed hereinafter.

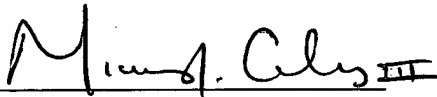
As an initial matter, Applicants note that only one pending, independent claim stands rejected – claim 1. The remaining claims (claims 17, 18 and 19) all depend from claim 1. Applicants' remarks regarding the Examiner's rejection will therefore focus on this independent claim. In this regard, Applicants have amended claim 1 to more clearly delineate the differences between the present invention and the prior art. Specifically, claim 1 has been amended to recite the adjustment of one of a plurality of different transmission parameters on the basis of the calculated quality of service (QoS). This aspect of the invention is controlled by the Real-Time Response Manager (RTRM) depicted in Figure 7. As now recited in claim 1, in response to the Diagnostic Message (DM) and the calculated quality of service, the RTRM can selectively adjust any one of a plurality of different transmission

parameters. As further recited in claim 1, the adjustable transmission parameters include routing of data, threshold values and the size of data packets. These parameters are selectively adjusted to improve the overall quality of service.

Applicants submit that this feature, as presently claimed, is neither taught nor suggested in the Hattori, Jones, Haddock or Drake references, nor in any possible combination thereof. Hattori discloses a number of information processing apparatuses connected over a network. In the system of Hattori, a QoS table is established and a user of the network can gain information regarding the functions and performance of each processing apparatus. Hattori neither teaches nor suggests monitoring a plurality of transmission parameters and selectively adjusting the parameters on the basis of QoS. Likewise, Haddock discloses a policy based QoS system wherein packet transmission over the network is based upon an established QoS policy for an identified traffic group. Again, however, the QoS is not employed in adjusting transmission parameters, such as packet sizes, routes and thresholds. Drake discloses a means of allocating selected QoS levels among various stations upon a network. The system of Drake ensures that selected QoS levels are provided to all transmission requests on the system. Drake does not, however, teach or suggest the selective adjustment of transmission parameters on the basis of QoS.

As noted by the Examiner, Jones only teaches changing the amount of data transmitted on the upstream due to degraded quality of service. See Jones Col. 8, lines 33-49. Thus, at best, Jones contemplates adjusting only one transmission

parameter. By contrast, Applicants' invention as noted in Figure 7, adjusts one of a number of different parameters in response to a calculated quality of service. This feature of the invention is now specifically recited in claim 1. Finally, the Examiner's rejection on the basis of obviousness-type double patenting is deemed overcome by Applicants' submission herewith of a terminal disclaimer. Thus, applicants submit that claim 1 as well as dependent claims 17-19 are free of the prior art and in a condition for allowance. Applicant respectfully requests reconsideration of the rejection of claim 1 and 17-19 and a Notice of Allowance.

By: 

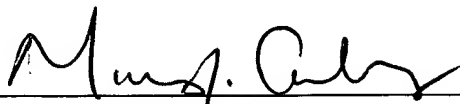
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#### **CERTIFICATE OF MAILING**

I HEREBY CERTIFY that the foregoing was placed in an envelope and mailed via U.S. Express Mail, postage prepaid to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this the 13 day of February, 2006.

The Commissioner is hereby authorized to charge any additional fees which may be required at any time during the prosecution of this application without

specific authorization, or credit any overpayment, to Deposit Account No. 50-1667.

  
Michael J. Colitz, III

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